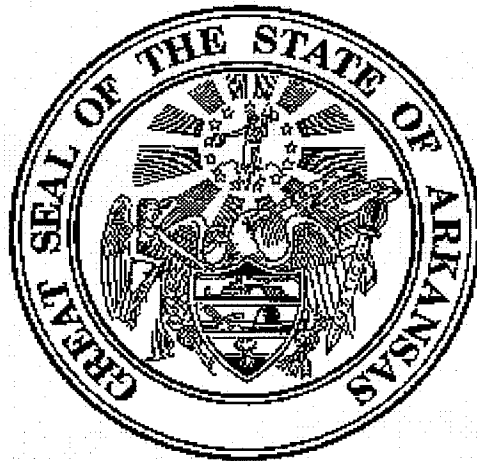


REPORT OF THE
LEGISLATIVE TASK FORCE
ON
DISTRICT COURTS



Presented to the
Senate Interim Committee on Judiciary
and the
House Interim Committee on Judiciary
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Prepared by the Bureau of Legislative Research

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I. Introduction

A. Task Force Creation and Membership

The Legislative Task Force on District Courts was created by Act 1849 of the 85th General Assembly of the State of Arkansas meeting in regular session.

The membership of the task force consisted of the following eleven members:

(1) Senate members: Senator Shawn Womack, who served as cochair of the task force, and Senator Jim Luker, both of whom were appointed by Senator Ed Wilkinson, the Chair of the Senate Interim Committee on Judiciary;

(2) House of Representatives members: Representative John Paul Verkamp, who served as cochair of the task force, and Representative Steve Harrelson, both of whom were appointed by Representative Verkamp, the Chair of the House Interim Committee on Judiciary;

(3) Chief Justice Jim Hannah of the Arkansas Supreme Court;

(4) Circuit Judge David Switzer who was appointed by the Arkansas Judicial Council;

(5) District Judges Jim Hamilton and Mike Robinson, both of whom were appointed by the Arkansas District Judges Council;

(6) Mr. Charles Schlumberger, Attorney at Law, who was appointed by the Arkansas Bar Association;

(7) Mayor Robert Patrick of St. Charles, Arkansas, who was appointed by the Arkansas Municipal League; and

(8) Madison County Judge Wes Fowler who was appointed by the Association of Arkansas Counties.

B. Task Force Duties

The General Assembly charged the Legislative Task Force on District Courts with conducting a comprehensive study of the transition of district judges to state employee status and the funding and role of district courts. The study was to consider the following issues:

- (1) The adoption of a process to merge existing district judges into a unified three-tiered court system;
- (2) The transition of district judges to state employees;
- (3) The retention and allocation of court costs, fines, and other revenues;

- (4) The merger of existing city and police courts into district courts;
- (5) The creation of a multiple-tiered salary plan based on caseload and other appropriate criteria;
- (6) The effectiveness of utilization of additional district judges or expanding the jurisdiction of existing district judges as an alternative to the creation of additional circuit judgeships;
- (7) The creation of either a separate district court resource assessment board or expansion of the existing Judicial Resource Assessment Committee to be authorized to determine creation, merger, or expansion of future district courts or positions;
- (8) The effectiveness of any programs creating district judgeships with expanded jurisdiction; and
- (9) The impact of Amendment 80 of the Arkansas Constitution on the district and city court systems.

The task force was directed to file a report of its findings and recommendations for legislation with the Senate Interim Committee on Judiciary and the House Interim Committee on Judiciary by September 1, 2006.

C. Organizational Meeting of Task Force

The Legislative Task Force on District Courts held its first meeting on Tuesday, December 6, 2005, at which time the task force members were introduced, the task force organized itself, a meeting schedule was established, and extensive discussions were held regarding the information the task force would need to complete its duties.

D. Issues Considered by Task Force

At their initial organizational meeting, members of the Legislative Task Force on District Courts indicated their awareness that during the 2005 Regular Session of the General Assembly when legislators contemplated proposed legislation regarding district courts, there was considerable skepticism among legislators regarding the reliability of reported caseload and workload numbers of the district courts and the judges that preside over them. For example, some district courts appeared to count cases per defendant, while other district courts appeared to count cases per charge.

Because of variations in reporting workload and caseload and the impact of diverse staffing patterns including both full-time and part-time positions, the task force members felt it was imperative that one of their first items of business should be

determining an accurate method of calculating the caseloads and workloads of the district courts. Once a valid and reliable methodology was established, the task force then would have a rational and defensible basis for any proposed changes to salaries for the district judges. In addition, the task force identified several other issues as critical to the study, including the expansion of district court jurisdiction and the distribution of costs, including salaries, benefits, retirement, and the like.

The task force thought it important to consider the history of changes to the Arkansas court system over the last forty years beginning with the report of the Arkansas Judiciary Commission to the General Assembly in 1965 and subsequent enactments related to the report. Also, the task force reviewed the following events that have significantly affected Arkansas' court system:

(1) The adoption of Amendment 55 to the Arkansas Constitution in 1974. Amendment 55 and related legislation reorganized county government and changed the role of the county judge in the judicial system although county judges retained some judicial responsibilities;

(2) The adoption of Amendment 67 to the Arkansas Constitution in 1988. Amendment 67 addressed the juvenile court issues;

(3) The adoption of Amendment 80 to the Arkansas Constitution in 2000; and

(4) The fact that there is some inconsistency between Amendment 67 and Amendment 80 as it relates to the General Assembly's responsibilities for juvenile cases.

The task force also considered the changes brought about by legislation passed in 1995 that restructured the way Arkansas handles court costs and filing fees and that expressed the intent of the General Assembly to begin the process of transferring the cost of the court system from local government to the state. In that initial legislation, the salaries of case coordinators were transferred from local to state funding.

Since 1995, in almost every session of the General Assembly there has been some decision to transfer what were county responsibilities to the state. All personnel working at the circuit court level have now gone through that process with the transfer to the state of funding for public defenders, prosecuting attorneys, deputy prosecuting attorneys, and all others who work directly for circuit judges.

II. History, Fact-Finding, and Analysis

A. Arkansas' Court System

1. History Prior to Amendment 80

In 1965, the Arkansas Judiciary Commission reported to the General Assembly its recommendations on the overhaul of Arkansas' entire court system. The first recommendation of the commission was directed at municipal courts (now district courts) and read as follows: "We recommend that judges of municipal courts be full-time judges instead of being part-time lawyers and part-time judges."

In addition, the commission noted that "we're aware of the experience of other jurisdictions which have adopted this proposed model for judicial services indicating concern of the municipalities regarding the location of the court to alleged municipal ordinance violations." This statement reflected the commission's recognition of concerns of municipalities that municipal courts would not be located in places that would provide adequate access to local residents. As a result, the General Assembly determined in 1965 that municipal courts would sit in each county's seat and in other municipal locations as necessary to serve the people of the state. The General Assembly charged the Supreme Court with establishing municipal court sites by rule.

The commission also recognized another concern that is often raised in opposition to state-financed municipal courts: "How municipalities will receive their share of court revenues."

The Legislative Task Force on District Courts considered other historical changes to the Arkansas court system. Specifically, Amendment 55 to the Arkansas Constitution, the changes that occurred with the role of the county judge in the judicial system after 1974, Amendment 67 to the Arkansas Constitution, which was the juvenile court amendment, the fact that Arkansas still has county judges with judicial responsibilities, and the fact that there is some inconsistency between Amendment 67 and Amendment 80 as it relates to the General Assembly's responsibilities for juvenile cases.

2. Impact of Amendment 80

In Arkansas prior to the passage of Amendment 80 to the Arkansas Constitution in November 2000, there were six different kinds of limited jurisdiction courts in the state with overlapping jurisdiction. Limited jurisdiction courts are courts in which issues specifically authorized by statute or constitution are the only issues that may be considered.

Since the passage of Amendment 80, the following changes have been made to the system of limited jurisdiction courts:

- (1) Justice of the Peace Courts were abolished by Amendment 80;
- (2) Courts of Common Pleas were abolished by Act 915 of 2001;
- (3) The name of each of the state's municipal courts was changed from "municipal" to "district" courts by Act 1693 of 2001;
- (4) The timing of election of district judges was changed, and all judicial elections were declared nonpartisan by Act 1789 of 2001;
- (5) The authority for the appointment of full-time district judges for temporary assignments in district courts was established by Administrative Order #16 issued by the Supreme Court on February 6, 2003;
- (6) New and specific geographical boundaries were set for every district court in the state, and a new structure of "departments" was established within each court when the court sits in multiple locations or when the court has multiple judges by Act 1727 of 2003;
- (7) A state-administered district judge retirement system was created, and the funding and administration was transferred from local retirement boards to the state by Act 1374 of 2003;
- (8) Police courts were abolished, the criminal jurisdiction of district and city courts was established, further statutory references were removed to other limited jurisdiction courts, and statutory provisions were repealed that, pursuant to Amendment 80, are to be governed by Supreme Court rule, by Act 1185 of 2003;
- (9) Four subject matter divisions were established in each district court, the civil jurisdiction was set for district courts, and rules were adopted for the operation of the small claims division by Administrative Order #18 adopted by the Supreme Court on December 9, 2004;
- (10) On December 9, 2004, the Supreme Court abolished its Inferior Court Rules and adopted, effective January 1, 2005, a new set of District Court Rules to establish the procedural rules for practice in district courts;
- (11) On February 24, 2005, the Supreme Court adopted Rule 1.8 of the Arkansas Rules of Criminal Procedure to authorize the appointment of a district judge as a criminal magistrate to carry out certain preliminary matters in criminal cases in circuit court; and
- (12) Additional compensation was allowed to be paid to district judges who are appointed to serve as criminal magistrates in circuit court by Act 1938 of 2005.

B. Three-Tiered Court System

Most states organize their court systems with a three-tiered system. A three-tiered court system usually comprises a lower level limited jurisdiction court, a midlevel general jurisdiction court, and an appellate court. General jurisdiction courts are courts that may consider any issue unless specifically prohibited from doing so by law.

A few states have only one general jurisdiction court that hears everything from traffic cases to murder cases. In addition, at the limited jurisdiction court level across the country, there is a mix of different types of arrangements for the sharing of jurisdiction between limited and general jurisdiction courts.

C. Fact-Finding and Analysis of District Courts' Jurisdiction, Reporting, and Statistics

1. Authority of General Assembly to Change District Court Jurisdiction

The State of Arkansas is in compliance with all the provisions of Amendment 80 as it relates to limited jurisdiction courts with all the actions that have now been taken either legislatively or adopted by court rule. However, the purposes for which Amendment 80 was proposed continue to exist, namely, to remove the many restrictions and contradictions that had existed under Article 7 of the Arkansas Constitution and in other places of the Arkansas Constitution and to give absolute flexibility to the General Assembly and the Supreme Court to create a judicial system that works well for the citizens of the State of Arkansas and for people that come before the state's courts. The Arkansas Constitution imposes no limitations on what the General Assembly can do as it relates to changing district court jurisdiction. In fact, every kind of criminal or civil case could be placed in district courts by the General Assembly should it desire to do so.

2. Reporting Guidelines for District Courts

One of the primary functions of the Administrative Office of the Courts is to gather and analyze court statistics. The Administrative Office of the Courts was established statutorily in 1965, and among its statutory directives is the duty to collect and analyze statistical data and other information concerning the business of the courts and report that data to the Supreme Court. Also, the General Assembly has directed the clerks and employees of the courts to comply with all requests of the Director of the Administrative Office of the Courts for information and statistical data relating to the

business of the courts and the expenditure of public funds for their maintenance and operations.

A form has been developed by which the district courts report monthly on criminal filings (i.e., misdemeanors, local ordinance misdemeanor filings, the number of felonies bound over, DWI I, DWI II, and DWI III, and all other traffic offenses), small claims, and civil filings. The district courts are directed to report counts. For example, if one defendant receives three offenses on one traffic citation, that is reported as three separate filings. That is consistent across the state. There is one employee at the Administrative Office of the Courts who is responsible for compiling these reports as they are received.

About eighty percent of the courts submit the monthly reports. The remaining twenty percent of the courts that do not submit the monthly reports receive a letter from the Administrative Office of the Courts requesting the reports. Compliance with the request from the Administrative Office of the Courts is voluntary. There is no Supreme Court rule that directs the courts to submit the monthly reports.

Once all the reports are received, the numbers from all the reports are compiled in an annual report. The annual report contains statistics for each individual court, along with statewide totals.

In its attempt to arrive at an accurate accounting of the caseloads and workloads of the district courts, the Legislative Task Force on District Courts was limited by the existing data prepared by the Administrative Office of the Courts, such as the surveys, Annual Reports for 2004 and 2005, and the 2004 Workload Analysis.

3. Statistical Methodology for Analysis of Workload of Limited Jurisdiction Courts

The Administrative Office of the Courts collects aggregate docket totals from district and city courts. Based on raw data, these statistics tell how many misdemeanors, DWI/DUI, traffic, and civil cases that specific city and district courts process in one month. The statistics are misleading, however, because they do not take the same amount of time to handle all the types of cases that are before the court. For example, the time needed to process a felon to be bound over to a general jurisdiction court may take longer than the time needed to process a minor traffic violation. The analysis of the raw data does not make this distinction; one felony case would be equal to one minor traffic case.

Another form of analysis used in this particular instance is the Delphi system.

This system is based upon moving from raw-data case filing statistics to weighted-data case filing statistics. It assigns various weights to cases depending upon how long it takes, on average, for those cases to be heard. There are various ways to create case weights. In the area of judicial resources assessment, judges are the experts regarding how much time it takes to process certain types of cases in their courts. The time estimates are then multiplied by the current number of filings in each case type and divided by the amount of judicial work time available in order to estimate judgeships needed.

D. History, Fact-Finding, and Analysis of District Court Fees, Costs, and Fines

1. History of Collection of Fees, Costs, and Fines

Prior to 1995, filing fees and court costs assessed by municipal courts (now district courts) varied widely from court to court. These revenues were used to fund various functions of local and state government such as public defenders, retirement plans, and crime victim reparations.

Act 1256 of 1995 established uniform filing fees and court costs for Arkansas. Under the provisions of Act 1256, Arkansas cities and counties are required to remit all collections of filing fees and court costs in excess of amounts disbursed for city and county administration of justice expenses for a base year of 1994. Excess collections are remitted to the Administration of Justice Fund (AOJF), and initially collections remitted to the AOJF were disbursed to those state agencies and programs that were funded by filing fees and court costs in an amount equal to such receipts by the agencies and programs for the fiscal year which ended June 30, 1995.

In July 1995, the Administration of Justice Fund Section of the Department of Finance and Administration was organized in compliance with Act 1256. This newly created section worked with the Administrative Office of the Courts, the Association of Arkansas Counties, and the Arkansas Municipal League to establish a statewide Uniform Filing Fees and Court Costs Program. Over three hundred seventy-five courts are now reporting and remitting uniform filing fees and court costs to the AOJF. The AOJF distributes these fees and costs to various agencies.

Local governments received an annual adjustment for the years 1996 through 2001 based on the Consumer Price Index. Act 1611 of 2001 eliminated the Consumer Price Index adjustment. However, the Consumer Price Index adjustment was reinstated

by Act 2212 of 2005 beginning in calendar year 2006.

Automatic increases for disbursements from the AOJF to state agencies and programs were not included in Act 1256 of 1995. However, through subsequent legislation, new programs have been added to those receiving disbursements from the fund, and some existing programs have received increased distributions.

A major funding change occurred with the passage of Act 1341 of 1997. Act 1341 provided for the transition to a state-funded public defender system. In order to accomplish the transition, the amount of money retained locally for the public defenders was reduced by eighty-five percent, causing an extra amount of court costs to be sent to the state to fund the public defenders.

Act 1256 of 1995 was enacted to provide for uniform filing fees and court costs, and the intent of the act as set forth in Ark. Code Ann. § 16-10-301 is "to eliminate the current system of collecting and assessing a large number of individual court costs and filing fees, to replace it with uniform costs and fees to be applied statewide, and to prohibit the implementation of new costs and fees for specific programs in the future." This intent has been complied with for the most part, but there have been numerous changes within the uniform costs and fees since the enactment of Act 1256.

District judges have discretion in the assessment of fines within established statutory limits. The revenue from the fines is generally payable to the city or the county general fund, unless the statute directs payment to a specific fund. This general procedure has remained the same.

Historically in the district court, court costs and fines were collected primarily by law enforcement. The police department of the city in which the court was located collected "city fines" and the county sheriff's office collected "county fines." Some court clerks collect money from fines, but doing so requires the clerks to obtain an exemption from the state accounting law from the Legislative Joint Auditing Committee.

2. Current Procedure for Collection of Fees, Costs, and Fines

The collection of fees, costs, and fines in district courts today is administered pursuant to the Arkansas District Courts and City Courts Accounting Law, Ark. Code Ann. § 16-10-201 et seq. This law was enacted in 1977, and it provides a detailed set of instructions for city and town police departments, county sheriff's offices, and district and city court clerks to follow in maintaining the bookkeeping records in criminal and traffic cases.

The Arkansas District Courts and City Courts Accounting Law contains instructions for law enforcement on maintaining bank accounts for court funds, handling uniform traffic citations, controls for traffic tickets and issuance of traffic tickets, submission of the arrest reports, and collection, receipt, and deposit procedures. It also has instructions for the court clerk in preparing the court docket, collection, receipt, and deposit procedures, preparation and submission of the court report, handling bond refunds, and installment and reconciliation of completed ticket books to arrest reports. These are minimum accounting procedures, and an exemption from these requirements may be obtained by applying to the Legislative Joint Auditing Committee upon a showing that the new accounting procedure meets or exceeds the minimum requirements.

3. Current Assessment, Collection, and Distribution of Fines

The Arkansas Fine Collection Law, Ark. Code Ann. § 16-13-701 et seq., was first enacted in 1995 and initially applied only to circuit courts. The law was expanded in 2001 to include district and city courts.

The Arkansas Fine Collection Law establishes procedures for the courts to follow in the assessment and collection of all monetary penalties imposed. Cities and counties are to designate a city or county official or a department that is primarily responsible for the collection of fines. The Arkansas Fine Collection Law allows cities and counties to contract with private entities to collect delinquent fines. Delinquent fines are defined as those fines having no payment activity for the immediately past ninety days.

Fines are due and payable immediately when assessed by the court, but the court may allow the defendant to make installment payments. If a defendant defaults in those payments, the defendant may be called into court to explain the default. If the default was not purposeful, the defendant may be given more time to make payments, or the amount of the payment may be reduced. If the default was a result of a purposeful refusal to obey an order of the court, the defendant may be jailed for nonpayment. The court may also certify nonpayment to the Department of Finance and Administration, and request the department to revoke, suspend, or refuse to renew the defendant's vehicle registration or driver's license.

An installment payment fee of five dollars per month is assessed and collected from each defendant who is allowed to make installment payments so long as a balance is owed. One half of the installment payment fee is retained locally to fund district and city court automation. The other half of the installment payment fee is remitted to the state to

be used by the Arkansas Court Automation Program.

A defendant may pay fines with cash, with an in-state check, or if the court has the equipment, with a credit card. Also, a judgment to pay a fine may be collected by any means available for collecting civil judgments and is a lien on real and personal property once filed with the circuit clerk of the county in which the land is situated. In addition, the court is required to keep three separate accounting records, the first being that of all fines, penalties, forfeitures, fees, and costs received by the court for any of the officers of the town, city, state, or county within the city limits in which the court is located. All sums collected in those cases are paid into the city treasury.

The second class of accounting records is for those cases cited outside the limits of the city where the county sheriff or state police makes the arrests. Those sums collected are paid into the county treasury. The third class of accounting records is for the sums collected in civil cases.

Although there have been numerous changes to the filing fee and court cost laws, true to the intent of the Arkansas Fine Collection Law, the fees and costs have remained uniform, and no new court costs have been enacted by the General Assembly. However, this has not been the case with fines. So many new fines have been enacted that benefit specific entities or programs that the same accounting difficulties that prompted the imposition of uniform court costs have arisen with these fines.

In large part, the accounting burden on the district courts has been eased by the creation of a separate program within the Administration of Justice Fund Section of the Department of Finance and Administration. Each time an act creates one of these special fines, an attempt is made to add language to require the remittance to the Administration of Justice Fund Section on a form provided for that purpose, and then the Administration of Justice Fund Section deposits the money to the proper state agency. There are now sixteen different acts that may be reported on one form, and the total collections each month are over four hundred thousand dollars (\$400,000).

E. Expenses and Salaries of District Courts

1. Allocation of Expenses and Salaries Among Cities and Counties

Under Ark. Code Ann. § 16-17-115, counties and cities in Arkansas generally split at least the payment of the district judge and chief court clerk salaries. There are numerous exceptions, and many cities and counties split the total expenses. There is a specific exception for Pulaski County. Ark. Code Ann. § 16-17-119 states that Pulaski County

will not pay any of the expenses of the district courts in that county. In the following district courts the county pays all of the expenses: Union County District Court and Howard County District Court.

Ark. Code Ann. § 16-17-106 authorizes district judges to appoint deputy district court clerks. However, the Attorney General has opined that the county is not liable for the payment of any of those salaries pursuant to general statutory provisions.

Additionally, Ark. Code Ann. § 16-17-121 establishes factors that cities and counties are to consider when granting salary increases in district courts.

No compiled data exists pertaining to the remaining expenses of district courts. Those expenses consist of office space, courtroom facilities, supplies, equipment, utilities, etc. Adding difficulty to any attempt to determine these expenses is the fact that there is no specific delineation of what exactly comprises the expenses of a district court.

2. Current Salaries of District Judges and District Court Clerks

Amendment 80, § 16 (E) provides that the General Assembly shall by law determine the amount and method of payment of justices and judges. Those salaries and expenses may be increased but not diminished during the term for which the justices or judges are selected or elected. Salaries of circuit judges shall be uniform throughout the state. These salaries or salary ranges were determined by Act 2220 of 2005, codified as Ark. Code Ann. § 16-17-108.

The judge of any district court may appoint a clerk for the court, who shall be designated and known as the district court clerk. The city council of the city in which the court is located shall fix the salary of the district court clerk at a reasonable sum, the salary to be computed on an annual basis and payable in equal monthly installments. However, when the county in which the court is located is to pay any portion of the district court clerk's salary, the salary must also be approved by the quorum court of that county. If the expenses and salaries of any district court are paid entirely by the county in which the court is located, Ark. Code Ann. § 16-17-211 directs that the salary of the district court clerk be fixed by the quorum court of the county and not by the city council.

F. Fact-Finding and Analysis of Filing Fees and Court Costs

1. Revenue From Increases in Filing Fees and Court Costs

The Legislative Task Force on District Courts finds that if city courts were merged into the district court system and became district courts, and if costs in those

courts were increased to the same level as the current district court costs, then extra money would be generated because the local ordinance court costs are the same, whereas the traffic and criminal court costs in city courts are twenty-five dollars (\$25.00) less than in district courts. Therefore, if a city court became a district court, there would be a twenty-five-dollar increase in the criminal and traffic court costs, and that would generate one million one hundred ninety-five thousand dollars (\$1,195,000) in additional money not currently allocated to any other state agency. The extra money could be used for something outside the traditional Administration of Justice Fund breakdown which currently exists.

The task force finds that a theoretical five-dollar increase in district court criminal, traffic, and local ordinance court costs would generate the following increases:

<u>Criminal cases</u>	\$497,000
<u>Traffic cases</u>	\$1,423,000
<u>Local ordinances</u>	\$51,000
<u>Total</u>	\$1,948,000

The task force finds that a theoretical one-hundred-dollar increase in DWI court costs in all courts would generate the following increases:

<u>Circuit court</u>	\$44,000
<u>District court</u>	\$1,195,000
<u>City court</u>	\$86,000
<u>Police court</u>	\$4,000
<u>Total</u>	\$1,329,000

The task force finds that a theoretical ten-dollar increase in the small claims filing fees would generate an increase of five hundred twenty thousand dollars (\$520,000), and a theoretical fifteen-dollar increase for small claims filing fees would generate an increase of seven hundred seventy-eight thousand dollars (\$778,000).

2. Circuit Court and United States District Court Filing Fees

The filing fee in United States District Court is three hundred fifty dollars (\$350). In contrast, the civil filing fee in an Arkansas circuit court is one hundred forty dollars (\$140).

G. Reports and Presentations

1. State Administration of Justice Fund Analysis

The Legislative Task Force on District Courts was presented with spreadsheets concerning the State Administration of Justice Fund revenues and expenditures without one-time expenditures or expenditures from the Administration of Justice Fund Balance.

The first spreadsheet listed those revenues deposited into the State Administration of Justice Fund and the percentage change in those revenues from 1996 through 2005. The total expenditure column had one-time expenditures deducted and listed the percentage change in those expenditures from the previous fiscal year. The total amount deducted from the expenditure column as one-time expenditures were fourteen million seven hundred fifty-four thousand six hundred seventy-seven dollars (\$14,754,677) in fiscal year 2001 and one million five hundred thousand dollars (\$1,500,000) in fiscal year 2005. The last column listed the difference in revenues and expenditures without one-time deductions for each fiscal year.

The second spreadsheet listed the average revenues, average percentages that the revenues had changed, average expenditures less one-time deductions, average percentages that those expenditures had changed, and the differences between average revenues and average expenditures for fiscal years 2003 to 2005.

2. Administration of Justice Fund Allocations Under Act 2298 of 2005.

A report entitled "Purpose of AOJF Allocations as Established by Act 2298 of 2005" was presented to the task force. The report detailed those entities receiving disbursements from the Administration of Justice Fund under Act 2298 of 2005 and the statutory language explaining those disbursements.

3. Arkansas Supreme Court Amendment 80 Committee

The task force heard an explanation of the contents of Amendment 80 and the recommendations of the Supreme Court Amendment 80 Committee. There is currently some debate regarding various provisions within Amendment 80 that address the issue as to whether or not multiple counties can be combined into district court districts as opposed to multiple county circuit court circuits.

4. Arkansas Municipal League District Court Task Force

The Arkansas Municipal League has developed a task force of its own, attempting to determine what information, questions, or concerns should be presented to the Legislative Task Force on District Courts. The municipal league's task force will be making recommendations to the municipal league's annual convention in June 2006, which will then finalize what the municipal league's position will be. The municipal league has an opportunity to build a state and local partnership that can help improve the Arkansas judicial system and protect the public's safety.

The municipal league believes that the structure of the court system at the district court level does not adequately take public safety into account. As the court costs elevate, it tends to force the judges into a position of only assessing the court costs, because they are mandatory, and sometimes suspending the fines, which is where the bulk of the revenue for local public safety comes from. The municipal league believes that district judges should have greater discretion. In this regard, the municipal league recommends a system similar to what is in place on the time pay situation so that district judges could then not only suspend the fines but could also suspend the court costs. Because the court costs have risen so much, the municipal league believes that there should be a better balance between the fines and the court costs.

If the state goes to a three-tiered judiciary, the municipal league believes that there is no reason why the cities and counties couldn't be the local tier. The cities and counties could continue to be responsible for that local tier, and the judges would continue to be local employees. According to the municipal league, everything that Amendment 80 called for would have been accomplished, and there would be no need for further changes.

The municipal league recognizes that there is great disparity in the caseloads and workloads among the district courts that needs to be addressed.

The municipal league identified the following issue that it thinks needs to be addressed. Presently, if a law enforcement officer makes an arrest and the city where the arrest occurred does not have a district court, the fines resulting from the arrest go to the city where the district court is located and not to the city where the offense occurred. However, the municipal league conceded that some cities have inter-city agreements enabling the city where the violation occurred to receive approximately eighty percent of the revenue resulting from an arrest.

Another alternative proposed by the municipal league for correcting inequities in the present court system would be to abolish the Arkansas District Judge Retirement System (ADJRS) and move district judges into the Arkansas Public Employees' Retirement System (APERS). However, doing this would raise the problem of what to do with the fifty million dollars of unfunded liability that has accrued in ADJRS. The actuaries of APERS would have to examine this problem closely. APERS did take in the district court clerks when ADJRS was created. However, the district court clerks were taken into APERS from the point that it started going forward, and the unfunded liability that was accrued for those district court clerks occurred before ADJRS was created. The only accrued liability that is in ADJRS is the new retirement service, or service after January 1, 2005.

The municipal league supports retaining local employment for district judges.

5. Association of Arkansas Counties

The Association of Arkansas Counties had been meeting with the Arkansas Municipal League and the County Judges Association discussing the issues prior to the creation of the task force. There has been no vote by the Association of Arkansas Counties or the County Judges Association at this point, but those organizations are more in favor of the model that the Arkansas Municipal League has presented.

III. Recommendations

The Legislative Task Force on District Courts makes the following recommendations to the Senate Interim Committee on Judiciary and the House Interim Committee on Judiciary:

- (1) A voluntary pilot program should be created by selecting up to twenty full-time district judges from counties that are capable of sustaining at least one full-time district judge to begin January 1, 2008;
- (2) The salary for full-time district judges participating in the pilot program should be set at one hundred fifteen thousand dollars (\$115,000), plus benefits;
- (3) The duties for all city judgeships in the pilot program counties shall be assumed by the pilot program district judges as of January 1, 2008, and all

city courts now in existence in a county of a pilot program may continue as departments of the appropriate district court unless the city determines it is in its best interest to discontinue the court. In that event, the district judge with jurisdiction and the city or county, or both, shall determine where those cases are heard. However, any city court that currently has court held in a specific location shall continue to have court held in that location by the district judge of the pilot program;

- (4) The state's portion of the cost for the pilot program should be paid through general revenues as recommended by the Supreme Court;
- (5) The General Assembly should add a filing fee to non-judicial foreclosure equal to the current circuit court filing fee and it should increase the small claims filing fee by twenty-five dollars (\$25.00);
- (6) All city judgeships in the pilot program counties should be eliminated effective January 1, 2008, and all city judgeships should be eliminated statewide January 1, 2009;
- (7) A cost-sharing formula should be used in which the state and the local governments within the county share equally the salary of the district judge with the state paying all benefits, including retirement, FICA, and insurance. It is the intent of the task force that at such time as the program should become statewide, the goal would be full state funding of the district judges;
- (8) For purposes of the pilot program, cities and counties should keep one-hundred percent (100%) of all their current revenue from fines and costs with the exception of the adjustment from the cost-sharing formula; and
- (9) The Supreme Court should adopt an administrative rule dealing with the subject matter jurisdiction of district courts, specifically limiting the new order to the judges participating in the pilot program and making reference to district judges rather than magistrates.

The task force requests that after due consideration, the Senate Interim Committee on Judiciary and the House Interim Committee on Judiciary forward these recommendations with any necessary revisions to the 86th General Assembly.